



802

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Atsushi HAYAMI et al.

Serial No. 09/987,034

Art Unit: 2631

Filed: November 13, 2001

Examiner: Bayard, Emmanuel

For: MODULATION SYSTEM

Atty Docket: 0102/0188

**RESPONSE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The following is a response to the Office Action dated January 12, 2005 in which claims 35-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (USP 5,574,448) in view of Asada et al. (USAP 2003/0115533).

Applicants respectfully submit that Asada et al. is not a proper prior art reference against the instant application insofar as the filing date of Asada was September 5, 2002 whereas the instant application has a filing date of November 13, 2001, and claims priority from a Japanese application having a filing date of December 28, 2000. Applicants note that Asada is a CIP of USP 6,533,535 filed on August 20, 1999. Therefore, if the examiner were to reject the claims under Asada, he should either cite the '535 patent or provide evidence that the portion of the Asada '533 publication being relied upon is not matter added on September 5, 2002.

In any event, the examiner alleges that Asada teaches means for determining a frequency of currents of a specified run length in the sequence of the code words (see page 1, paragraph [0007]).

Applicants respectfully submit that the portion of Asada relied upon by the examiner does not teach means for determining a frequency of a currents of a specified run length in the sequence of code words.

In light of the foregoing, the examiner is respectfully requested to reconsider the application and allow pending claims 35-40, and pass the case to issue with all of the claims pending in this application.

Respectfully submitted,

  
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Date: March 30, 2005